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May 22, 2013

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, D.C. 20551

Dear Chairman Bernanke:

I am writing in response to the Proposed Rule to implement Section 165 of the Dodd-Frank Act, which would impose enhanced prudential standards and early remediation requirements for foreign banking organizations and foreign nonbank financial companies [Docket No. R-1438 and RIN 7100 AD 86]. I am concerned that the United States' trade agenda could be impacted by retaliatory measures and/or a damaged negotiating position due to this rule as it is proposed.

Although the U.S. has a net trade deficit, we enjoy a \$17.3 billion surplus in services, largely as a result of American financial services exports. The top two market access priorities that U.S. financial services providers seek to obtain are national treatment and freedom of juridical form; priorities sought by U.S. trade agencies on behalf of American business. This proposal runs counter to both of these principles by requiring foreign financial services providers to be treated unequally vis-à-vis their domestic counterparts, violating the national treatment principle, and by requiring foreign banking organizations to organize in the U.S. under an intermediate holding company structure, removing the freedom to operate solely via branch, joint venture, or subsidiary. Both of these provisions are diametrically opposed to what the U.S. seeks to negotiate in free trade agreements, bilateral investment treaties, and other trade instruments.

I am concerned implementation of this rule as proposed could result in retaliatory measures from trading partners or could hinder America's ability to negotiate financial services provisions in key trade agreements such as the Trans-Pacific Partnership (TPP) and the nascent Transatlantic Trade and Investment Partnership (TTIP) or in future negotiations. We cannot afford to hurt such a strong component of our exports. I hope that you will consider the effects on the U.S. trade agenda and the potential impact of retaliation against American firms seeking to operate in foreign countries as you finalize this rule.

Very truly yours,

Peter J. Roskam
Member of Congress